

Nebraska Sales and Use Tax MANUFACTURING MACHINERY AND EQUIPMENT (MME) Spring 2012

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It is not intended to be a stand-alone document.

It is not an information guide, nor does it carry regulatory or statutory authority.

Nebraska tax statutes, regulations, information guides, and other resources are available at www.revenue.ne.gov.

CHANGE IN THE NEBRASKA SALES AND USE TAX DUE DATE

The sales and use tax due date will change from the 25th of the month to the 20th of the month.

This change will take effect:

- For monthly filers, with the October return due on November 20, 2011;
- For quarterly filers, with the 4th quarter return due on January 20, 2012; and
- For annual filers, with the 2011 annual return also due on January 20, 2012.

This change applies to the Nebraska and Local Sales and Use Tax Return, Form 10, and the Business Nebraska and Local Use Tax Return, Form 2.

Nebraska and County Lodging Tax and Tire Fee returns remain due on the 25th of the month.

THE DEPARTMENT IS GOING PAPERLESS!

- Printing and mailing of tax forms has been reduced, and in some cases, eliminated.
- Sign up for a free subscription service at <u>www.revenue.ne.gov</u> to get email updates on your topics of interest.

TODAY'S AGENDA

- 1. Overview of Sales and Use Tax
- 2. What is "manufacturing"?
- 3. Manufacturing Machinery and Equipment (MME)
- 4. Contractor Issues
- 5. Water & Energy Source Utility Exemption

L. OVERVIEW OF SALES AND USE TAX

1. OVERVIEW OF SALES AND USE TAX

- What is a sales transaction?
 - Sales tax is calculated on the gross receipts.
 - Delivery location determines the rate of local tax.
 - Retailers must collect and report sales tax or document why they didn't.
- What is use tax?

What is a Sales Transaction?

A SALE is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

Sales Transaction (continued)

SALES TAX is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

Sales Transaction (continued)

A **SALE** includes transfer of these digital goods:

- Books;
- Downloading songs & ringtones;
- Movies, music, music videos,
 & TV shows; and
- Prepaid phone cards.

THE BOTTOM LINE FOR SALES TAX

Sellers must collect sales tax - OR document why they did not.

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are <u>not</u> BOTH due on the same transaction.
- The big difference is who remits the tax -
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the Department by the purchaser/consumer.

Use Tax (continued)

Use tax and sales tax have these things in common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - OR
 - Where first usage in Nebraska takes place.

Use Tax (continued)

- Often due when purchases are made from an out-of-state seller
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Due when the business withdraws tax-free inventory for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

2. WHAT IS MANUFACTURING?

2. WHAT IS MANUFACTURING?

Manufacturing is...

performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different:

• state;

property; or

quality;

• thing.

• form;

2. What is manufacturing? (continued)

Manufacturing does not include:

- Document shredding
- Mining
- Bottling
- Sorting
- Retail operations
- Generation or transmission of electricity
- Production or transmission of information or data

- Preparation of food for immediate consumption
- Purification or transportation of water
- Commercial agricultural operations or support of those operations

3.

MANUFACTURING MACHINERY & EQUIPMENT (MME)

3. MANUFACTURING MACHINERY & EQUIPMENT (MME)

MME is machinery or equipment:

- Used in manufacturing; and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased sales tax exempt.

Machinery and equipment is exempt from sales and use taxes when **BOTH** these criteria have been met:

1. More of the manufacturer's total annual revenue is from sales of tangible personal property they manufacture than from any other business activity;

AND

2. The machinery and equipment is used more than 50% of the time in manufacturing. Spring 2012 - 20

Machinery and equipment is tax exempt when it is (1-6):

 Used to produce, fabricate, assemble, process, finish, refine, or package tangible personal property;

- Drill press used to manufacture shelving and cabinets
- Extrusion mold used to produce rigid
 Styrofoam to ship cabinets

2. Used to transport, convey, handle, or store the manufactured goods or raw materials;

- Forklift used to off load raw materials, or used to move finished product throughout facility
- Shelving used to store raw materials or the finished product

3. Used to maintain the integrity of the manufactured products, or unique environmental conditions for the products or MME itself;

- Humidifier used to maintain paper quality in a paper plant
- Freezer used by an ice cream manufacturer

4. Used to test or measure the product, the manufacturing process, or the quality of the finished products;

Example:

 Incubator used to determine bacteria level in manufactured meat product

5. Computers, software (and related training), and related peripheral equipment used to guide, control, operate, or measure the manufacturing process.

Example:

 Computer hardware and software used to direct robotic assembly line equipment to attach a rivet at a particular point

6. The MME is not required to actually "touch" or work on the item being manufactured in order to qualify for the exemption.

Examples:

- Boilers used by a manufacturer to produce steam essential to the manufacturing process
- Equipment used to make a necessary catalyst
- Molds, dies, and materials necessary to create them for use in manufacturing the finished product or its packaging
- Component parts used to create self-constructed equipment
- Replacement parts
- Repair labor charges
- Installation and maintenance services

more... Spring 2012 - 26

Repair of MME

Manufacturers may purchase parts and labor to repair MME tax exempt.

- Motor for a drill press
- Grease or other lubricants to keep the drill press running
- Repair labor

Warranties And Guarantees

Sales of warranties and guarantees that cover exempt MME are also tax exempt.

Taxable Machinery & Equipment

- Tools powered by hand
- Security equipment
- Safety equipment
- Repair shop equipment
- Cleaning equipment
- Licensable motor vehicles and trailers
- Equipment used in retail operations
- Office equipment used for research and development
- Office equipment, including computers and software

Other Taxable Items

Items necessary to the production of a product that are not considered MME.

- Catalyst a catalyst is a chemical that causes or facilitates a reaction without becoming a part of the resulting chemical compound
- Cutting oil used on a drill press to cut holes in the manufactured product

Dual Use of MME

MME that is used BOTH for manufacturing and for other purposes is exempt when MORE THAN 50% of its total use is for manufacturing.

Documenting Exempt Purchases

Manufacturers must give a properly completed Form 13, Section B, Category 5 to their Nebraska vendors.

Nebraska Department of REVENUE	Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption • Read instructions on reverse side/see note below					FORМ 13
NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER			
Name			Name			
Street or Other Mailing Address			Street or Other Mailing Address			
City	State	Zip Code	City		State	Zip Code
Check Type of Certificate Single Purchase Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:						
Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)						
SECTION B — Nebraska Exempt Sale Certificate						
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)						
If exemption category 2 or 5 is claimed, enter the following information:						
Description of Item(s) Purchased			Intended Use of Item(s) Purchased			
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-						
If exemption category 6 is claimed, seller must enter the following information and sign this form below:						
Description of Item(s) Sold		Date of Seller's Origina	l Purchase	Was Tax Pai	d when Purchased by Seller?	Was Item Depreciable?

MME 32

4. CONTRACTOR ISSUES

4. CONTRACTOR ISSUES

- Contractors may purchase and annex MME to real property, or repair MME that is annexed.
- The MME and repair parts purchased and annexed by a contractor are taxed according to the Contractor Option chosen.
- Charges for contractor labor are not taxable.

Option 1 Contractor

> Transactions with the Supplier

- Can purchase MME or repair parts for resale.
- Must give Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.

> Transactions with the Manufacturer

- Does NOT collect sales tax on any portion of the invoice.
- Must obtain a properly completed Form 13,
 Section B, Category 5 from the manufacturer.

Option 2 Contractor

> Transactions with the Supplier

 Pays sales or use tax on its purchase of MME and repair parts for the MME.

> Transactions with the Manufacturer

 Does NOT collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Option 3 Contractor

> Transactions with the Supplier

- Buys MME or repair parts tax exempt.
- Must give Nebraska supplier a properly completed Form 13, Section C, Block 1.

> Transactions with the Manufacturer

- Must remit use tax at the rate in effect at the time and place of withdrawal of MME or repair parts from inventory.
- Does NOT collect sales tax on any portion of the invoice. Cannot accept a Form 13_{pring 2012}

Form 13, Section C

Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption REVENUE Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption RESET FORM 13						
NAME AND MAILING ADDRESS OF PURCHASER	NAME AND MAILING ADDRESS OF SELLER					
Name	Name					
Street or Other Mailing Address	Street or Other Mailing Address					
City State Zip Code	City State Zip Code					
Check Type of Certificate						
Single Purchase Blanket If blanket is checke	d, this certificate is valid until revoked in writing by the purchaser.					
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:						
Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)						
SECTION C—For Contractors Only						
1. Purchases of Building Materials or Fixtures:						
As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-						
2. Purchases Made Under Purchasing Agent Appointment on behalf of:						
Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.						

For more detailed information, refer to the Form 13 instructions.

4. Contractor Issues (continued)

PLEASE NOTE: MME does NOT include items that are an integral part of a building.

Examples:

- Foundation for a specific piece of MME
- Electrical wiring from the electrical panel to the shutoff box for the MME

4. Contractor Issues (continued)

Contractors As Manufacturers

- Contractors are manufacturers when more of their annual revenue is from items they manufacture and sell, but are not required to annex.
- When contractors are considered manufacturers, they may purchase MME tax exempt.

Contractors as Manufacturers (continued)

Example:

A cabinet maker with 55% of annual revenue from sale of cabinets that he is not required to annex, purchases a drill press to make cabinets.

The cabinet maker is a manufacturer and may purchase the drill press tax exempt.

5.
WATER &
ENERGY SOURCE
UTILITY EXEMPTION

5. WATER EXEMPTION

- When more than 90% of the water billed through a single meter is used for one of the following exempt purposes:
 - Irrigation of agricultural lands
 - Manufacturing
 - Care of animals whose products we eat or wear

5. ENERGY SOURCE UTILITY EXEMPTION

- When more than 50% of a qualified energy source is used for an exempt purpose:
 - Generation of electricity
 - Irrigation or farming
 - Processing or manufacturing
 - Refining
 - Use by any hospital
- Use Form 13E, Nebraska Energy Source Exempt Sale Certificate

Nebraska Department of REVENUE

Nebraska Energy Source Exempt Sale Certificate

FORM 13E

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER			
Name			Name			
Street or Other Mailing Address			Street or Other Mailing Address			
City	State	Zip Code	City	State	Zip Code	
Check Type of Ce	ertificate	If Blanket is checked	, this certificate is va	lid until revoked in writing by the purch	aser.	
Purchaser's Account Number			Was an energy audit (analysis) completed prior to issuing this certificate to the seller? YES NO			
Describe your bu	siness operations:					
□ A.	A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) has been properly determined to be used or directly consumed in: (check appropriate box)					
	Manufacturing and Processing	☐ Farmi	ng 🗌	Generation of Electricity		
	☐ Irrigation	☐ Refini	ng			
□ B.	B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebs sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriately)					
	☐ Manufacturing and Processing	Farmi	ng 🗌	Generation of Electricity		
	☐ Irrigation	☐ Refini	ng			
1	Any purchaser, or the agent thereof, or other sales and use tax under the Nebraska Revenue Ac penalty of \$100.00 or ten times the tax, whichever a said penalty shall apply to each purchase made d authorized to sign this certificate, and to the best of	t, as amended, shall in amount is larger, for eac uring the period the bla	addition to any tax, in h instance of present nket certificate is in e	iterest, or penalty otherwise imposed, t ation and misuse. With regard to a blan effect. Under the penalties of law, I dec	be subject to a ket certificate,	
	uthorized Signature of Purchaser		Title		Date Issued	

SUMMARY OF PURCHASES BY MANUFACTURERS

Recognize what is taxable and know how to document what is not taxable:

- MME Equipment Exemption
- Other Equipment
- Component/Ingredient
- Supply Items
- Energy Source Exemption
- Water Exemption

Form 13, Section B (Not Exempt)

Form 13, Section A (Not Exempt)

Form 13E

Form 13, Section B

For more information on MME, refer to:

Sales and Use Tax Regulation <u>1-012.02D(33)</u>;
Revenue Ruling <u>01-05-1</u>; and
Revenue Ruling <u>01-08-2</u>
at <u>www.revenue.ne.gov.</u>





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